

**401 KAR 4:200. Documents and procedures incorporated by reference for the administration of the regulatory provisions of Kentucky's water resources law.**

RELATES TO: KRS 151.125, 151.140, 151.150, 151.160, 151.182, 151.184, 151.200, 151.230, 151.240, 151.250, 151.260, 151.280, 151.293, 151.295, 151.297, 151.310

STATUTORY AUTHORITY: KRS 151.125

NECESSITY, FUNCTION, AND CONFORMITY: KRS 13A.120 prohibits an administrative body from issuing standards or by any other name a document where an administrative regulation is required or authorized by law. KRS 13A.130 prohibits an administrative body from using a policy, memorandum, or other form of action to modify or expand a statute or administrative regulation, or to expand or limit a right guaranteed by the Constitution of the United States, the Constitution of Kentucky, a statute, or an administrative regulation. This administrative regulation provides for the incorporation by reference allowed under 1 KAR 1:010 of the documents needed by the Environmental and Public Protection Cabinet to implement 401 KAR Chapter 4, Water Resources. Copies of these documents may be obtained or examined at the Division of Water Frankfort Office.

Section 1. Stream Construction Permits. The following documents and policy are incorporated by reference for the purpose of determining whether to issue or deny permits for any construction or reconstruction in or along a stream pursuant to KRS 151.250:

(1) Documents.

(a) National Engineering Handbook, Section 4, Hydrology; Soil Conservation Service; August, 1972.

(b) HEC-2 Water Surface Profiles (Computer Program); U.S. Army Corps of Engineers; September, 1982.

(c) Federal Emergency Management Agency, National Flood Insurance Program, Part 59 - General Provisions; FEMA; May 31, 1979.

(d) Kentucky Model Flood Damage Prevention Ordinance; Booker Associates, Inc.; August, 1983.

(e) Technique for Estimating Magnitude and Frequency of Floods in Kentucky; U.S. Geological Survey, Water Resources Investigations 76-62; November, 1976.

(f) Drainage Areas of Streams at Selected Locations in Kentucky; U.S. Geological Survey, Open-File Report 81-61; January, 1981.

(g) TP-149, A Method for Estimating Volume and Rate of Run-off in Small Watersheds; Soil Conservation Service; April, 1973 Revised.

(h) Floodway, Flood Boundary and Floodway Maps; Flood Insurance Rate Maps; Flood Hazard Boundary Maps; Federal Emergency Management Agency; (Dates Vary).

(i) Executive Order 77-927, National Flood Insurance Program; Signed by Governor Julian Carroll, September 30, 1977.

(2) Policy. Division of Water policy document DOW 84-01 is hereby incorporated by reference.

Section 2. Dam Construction Permits. The following documents are incorporated by reference for the purpose of determining whether to issue or deny permits to construct, reconstruct, modify, or remove any dam on appurtenance thereto:

(1) Documents.

(a) Drainage Manual; Commonwealth of Kentucky, Department of Transportation; 1983 (Revised); Page 400.

(b) DAMS 2, Structure Site Analysis Computer Program; Soil Conservation Service; October, 1982 (Draft).

(c) HEC-1, Flood Hydrograph Package (Computer Program); U.S. Army Corps of Engineers; September, 1981.

(d) HEC-2, Water Surface Profiles (Computer Program); U.S. Army Corps of Engineers; September, 1982.

(e) Guidelines for the Geotechnical Investigation and Analysis of Existing Earth Dam; Division of Water; June, 1980.

(f) General Discussion of Dam Breach Analysis; Division of Water; August, 1979.

(g) TR-20, Computer Program for Project Formulation Hydrology, Soil Conservation Service; May, 1983 (Draft of Second Edition).

(h) ICES LEASE-1, Slope Stability Analysis (For Computer); Bailey and Christian, Massachusetts Institute of Technology; April, 1969.

(i) REAME, Computerized Slope Stability Analysis; Y. H. Huane, Institute for Mining and Minerals Research; February, 1983.

(j) SWASE, Computerized Slope Stability Analysis; Y. H. Huang, Institute for Mining and Minerals Research; 1983.

(k) NWS Dam - Break Flood Forecasting Model (Computer Program); Dr. D. L. Fread, National Weather Service; July 18, 1983.

(2) Policy. (Reserved).

Section 3. Water Withdrawal Permitting. The following documents included by reference and policies are for the purpose of determining whether to approve or deny permits to withdraw water pursuant to KRS 151.150:

(1) Documents.

(a) Flow Duration at Selected Stream-Sites in Kentucky (USGS Open File Report 80-1221).

(b) Drainage Areas of Streams at Selected Sites in Kentucky (USGS Open File Report 81-61).

(c) USGS Stream-flow/Basin Characteristics (unpublished).

(2) Policy.

(a) For the purpose of evaluating withdrawals from streams, the seven (7) day, ten (10) year low flow will be maintained in order to ensure proper water quality and provide for aquatic life needs.

(b) In evaluating applications for groundwater withdrawals, the cabinet will allow the withdrawal of reasonable amounts without requiring submission of extensive data and analysis. However, if the cabinet has reason to believe that groundwater withdrawals will be of such location or extent that existing uses will be impaired, the cabinet shall require detailed analysis of the proposed withdrawal's effects. If a permitted groundwater withdrawal adversely effects previously permitted groundwater users or domestic water supplies, the withdrawal shall be reduced to a rate that no longer causes adverse effects or all affected users shall be provided with sufficient water to meet their needs. (10 Ky.R. 1212; 11 Ky.R. 176; eff. 8-7-1984; Crt eff. 8-9-2018.)